

REMARKS

Claims 3, 5, 7, 21 and 24-28 are now present in this application. By this Amendment, claims 1, 2, 8-12 and 22 are canceled, and claims 27 and 28 are added.

Reconsideration of the Application as amended is respectfully requested.

Objection to Claim 26

Claim 26 is objected to because there is no proper antecedent basis in claim 24, from which claim 26 depends, for the word, "frame." Applicants agree, and have amended claim 26 to depend from claim 25, as suggested by the Examiner, thereby overcoming the objection.

Reconsideration and withdrawal of this objection are respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1-3, 7-10, 12, 21, 22 and 24-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 3,709,389 to Steltz. This rejection is respectfully traversed.

A prior art reference anticipates the subject of a claim when the reference discloses every feature of the claimed invention, either explicitly or inherently (see, In re Paulsen, 30 F.3d 1475, 1478, 1479, 31 USPQ2d 1671, 1675 (Fed. Cir. 1994), In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990), Hazani v. Int'l Trade Comm'n, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed. Cir. 1997) and RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

This amendment is moot with respect to claims, which have been canceled.

New independent claim 27 positively recites a combination of features including a hydraulic device that is sized and constructed to be conventionally used while being remotely

operated while being suspended from a crane, comprising (1) a hydraulic dumpster body portion having a container with an open top and a bottom having at least one hinged door that is opened and closed by hydraulic pressure and that is sized and constructed to be conventionally used while being suspended from the crane; (2) a hydraulic power enclosure containing a pump, a controller and power source having a mount on an exterior side of the enclosure for connecting the enclosure to the hydraulic dumpster body portion, the mount having a planar portion with two rails extending away from the enclosure and forming a connection between the enclosure and body portion; (3) a cylinder for holding hydraulic fluid connected to the body portion located in the hydraulic power enclosure, the at least one hinged door being movable by hydraulic pressure applied to the cylinder; (4) the pump being connected to the cylinder for pumping pressurized fluid to the cylinder; (5) the power source being for providing power to the pump; (6) the controller being connected to the body portion and electrically connected to the pump, the controller including a receiver for receiving a control signal and transmitting power from the power source to the pump based on the control signal to control movement of the at least one hinged door; (7) a manually operated control switch located at the body portion for transmitting power from the power source to the pump to control movement of the at least one hinged door; and (8) a transmitter for remotely transmitting the control signal to the receiver to operate the pump when the hydraulic device is suspended from the crane.

None of the applied art discloses or suggests this combination of features. For example, Steltz's refuse container is not sized and constructed to be conventionally used while being suspended from a crane. Nor does Steltz's refuse contained use a pressurized cylinder to open a door, as recited.

Steltz's doors 13 are provided to enclose opening 12, through which refuse is introduced into the container 1, and are manually openable and closable. See, for example, col. 3, lines 17-25 of Steltz. Steltz's doors 13 are not operated by hydraulically pressurized cylinders. The only element operated by hydraulic pressure in Steltz is the pivotable compactor 23, which is not a door.

In this regard, Applicant respectfully submits that the Office Action incorrectly states that Steltz uses, "a cylinder (30,31) to open or close a door (43) movable by hydraulic pressure applied to the cylinder." In actuality, no door is operated by hydraulic pressure in Steltz. The assertion in the Advisory Action that compactor 23 is a door is not consistent with the conventional definition of a door, or how a door is disclosed by Applicants. A door opens and closes an opening, and Steltz's compactor 23 does not do this.

Further, Steltz has no disclosure of the rail features positively recited in the claims.

Accordingly, the Office Action does not make out a *prima facie* case of anticipation of the claimed invention by Steltz.

Reconsideration and withdrawal of this rejection of claims 1-3, 7-10, 12, 21, 22 and 24-26 are respectfully requested.

Claims 5 and 11 stand rejected under 35 USC §103(a) as unpatentable over Ward in view of anticipated by U.S. Patent Re. 36,685 to Bounds. This rejection is respectfully traversed.

This rejection is moot with respect to claim 11, which has been canceled.

This rejection is unclear because it is said to be based on Ward and Bounds, but the body of the rejection never mentions Ward, a reference which the Examiner indicated in a personal interview held on May 4, 2005, does not anticipate claim 1, from which claim 5 depends, and does

not anticipate claim 8, from which claim 11 depends. The body of the Office Action relies on Steltz as the base reference to be modified by Bounds.

The Advisory Action clarifies the rejection by stating that it is based on Steltz in view of Bounds.

Claim 1, from which claim 5 depends is not anticipated by Steltz, for reasons discussed above. Moreover, Bounds is not applied to remedy the deficiencies of Steltz.

Accordingly, even if it were obvious to modify Steltz in view of Bounds, as suggested, the Office Action has not made a *prima facie* case that the resulting modified version of Steltz would either anticipate or render obvious the claimed invention recited in claim 5 or claim 8, and this rejection should be withdrawn.

Telephone Interview

Applicants' below-named representative was informed by telephone on August 8, 2006 by Supervisory Primary Examiner Lillis that a review of claim 27 revealed that claim 27 appears to patentably define over the applied art. Examiner Lillis stated, however, that if claim 27 were to be presented in an Amendment, that the prior art search would have to be updated. Applicants thank Examiner Lillis for reviewing claim 27, which was presented in the body of the Amendment filed on May 16, 2006, as claim X.

New Claims

Claim 27 is fully supported by Applicants' originally filed disclosure, and is patentable over the applied art for reasons which are presented, above. New claim 28, which depends from claim 27, is patentable at least because it depends from allowable claim 27. Additionally, claim 28 further

defines over the applied art, especially Steltz, which does not disclose the building material feature adaptations features recited in this claim. Support for the building material features is found, for example, on page 1 of the main body of the specification that discusses a particular type of building materials, i.e., roofing materials.

Conclusion

All of the stated grounds of rejection have been overcome or rendered moot. Applicants therefore respectfully request that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472, at (703) 205-8076, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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